

US Serial No. 10/525398

Page 4 of 6

Remarks:

The amendments entered to the claims are not intended to disclaim any patentable subject matter, and are to be entered without prejudice or traverse. The applicant expressly reserves the right to reinstate the subject matter amended or canceled from the foregoing claims at a later date.

Regarding the rejection of claims 1, 3 and 4 under 35 USC 112, 2nd paragraph:

The amended claims presented above are believed to fully address and overcome the outstanding rejection.

Regarding the rejection of claims 1-4 under 35 USC 102(b) in view of US 4805839 to Malek:

The applicant respectfully traverses the rejection of the outstanding claims in view of the Malek reference.

As the applicant points out in his own specification, the applicant's overcap provides advantageous benefits which are not provided by the construction or configuration of the Malek overcap. As noted by the present applicant:

"[0002] Aerosol actuator buttons are well known in the art and are used to atomize a pressurized liquid into a spray which can be delivered into a room or to coat an object with the atomized spray. A variety of different types and examples of actuator buttons are disclosed in U.S. Pat. No. 4,805,839 to S. C. Johnson & Son, Inc. The actuator button disclosed in U.S. Pat. No. 4,805,839 diverts its spray away from the user by having an asymmetrical conical depression in the bottom of the button where the configuration of the conical depression causes the liquid escaping from the orifice to be tilted away from the central long axis of the cavity which receives the free end of an aerosol valve so that the central long axis of the aerosol spray pattern is tilted away from the central long axis of the cavity at a preselected angle.

[0003] Such an arrangement and tilting of the aerosol spray pattern can have a negative effect on the delivery and quality of aerosol product into the area which is being treated by the aerosol. The delivery and quality of aerosol product is dependent upon the atomization of the liquid which is being delivered as an aerosol through the actuator. The finer the

US Serial No. 10/525398

Page 5 of 6

particle size of atomization, the longer the fragrance, or other material to be delivered, will stay in the room atmosphere as well as providing for a larger area of coverage due to the diffusion of the fragrance, or other material, out of the particles.

[0004] With that background, the present invention provides for an actuator button which provides better atomization of liquid into the air. In addition, with the spray being dispensed along the central long axis, the user will have better control over dispensing the aerosol without having to remember the angle at which the actuator button of U.S. Pat. No. 4,805,839 is positioned."

Thus, the actuator overcap of Malek fails to operate or fulfill the improved atomization of the contents released therethrough, which – simply stated – cannot be the same as the present applicant's inventive overcap. Thus, the Malek overcap cannot be seen as anticipating the current applicant's overcap.

The Examiner is respectfully reminded that an applicant may show possession of an invention by disclosure of drawings or structural chemical formulas that are sufficiently detailed to show that applicant was in possession of the claimed invention as a whole.

See, e.g., *Vas-Cath*, 935 F.2d at 1565, 19 USPQ2d at 1118 ("drawings alone may provide a 'written description' of an invention as required by Sec. 112*"); *In re Wolfensperger*, 302 F.2d 950, 133 USPQ 537 (CCPA 1962) (the drawings of applicant's specification provided sufficient written descriptive support for the claim limitation at issue); *Autogiro Co. of America v. United States*, 384 F.2d 391, 398, 155 USPQ 697, 703 (Ct. Cl. 1967) ("In those instances where a visual representation can flesh out words, drawings may be used in the same manner and with the same limitations as the specification.") See also MPEP, Sec. 2163.

Accordingly, reconsideration of the propriety of the rejection under 35 USC 102(b), and its withdrawal in view of the amended claims presented herein is solicited.

Should the Examiner believe that telephonic communication will advance the prosecution of the present application they are invited to telephone the undersigned at their convenience.

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US Serial No. 10/525398

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Page 6 of 6

CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, including any extension of time fees, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;

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31 Oct 2007

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I certify that this document, and any attachments thereto, is being telefax transmitted on the date indicated below to telefax number : 571 273-8300 and is addressed to the: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450."

Parfomak
Andrew N. Parfomak

31 Oct 2007

Date

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